IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 36 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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COMMISSIONER OF INCOME-TAX

Versus

GUAJRAT STATE FERTILIZERS CO. LTD.

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Appearance:

MR MANISH R BHATT for Petitioner No. 1

MR JP SHAH for Respondent No. 1

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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the revenue, the following questions have been referred to this Court under the provisions of Section 256(1) of the Income Tax Act,1961 (hereinafter referred to as 'the Act') for its opinion.

"[1] Whether, in law and on facts, the assessee is entitled to depreciation at higher rates on tractors, carts, fencing, telephone expenses etc?

[2] Whether, in law and on facts, the assessee is entitled to claim investment allowance on account of realignment of currency capitalisation?"

2 Mr.M.R.Bhatt, learned Standing Counsel has appeared for the revenue whereas Mr.J.P.Shah, learned Counsel has appeared for the assessee.

3 Mr.J.P.Shah, learned Advocate, has fairly submitted that looking to the smallness of the amount involved, he would like to concede so far as question No.1 is concerned and, therefore, in view of the concession given by the learned Advocate for the assessee, we answer question no.1 in the affirmative i.e. against the assessee and in favour of the revenue.

4 So far as question No.2 is concerned, it has been submitted by the learned Advocate that the said question has alraedy been decided by this Court in I.T.R.No.178 of 1985 decided on 19.10.2002. In view of the judgment delivered in the said case, we answer the said question in the affirmative i.e. in favour of the assessee and against the revenue.

5 The reference stands disposed of accordingly. There shall be no order as to costs.

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhat